

SENATE BILL 2741

By Gardenhire

AN ACT to amend Chapter 557 of the Private Acts of 1939; and
any other acts amendatory thereto, relative to the
Hamilton County Employees' Retirement Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 557 of the Private Acts of 1939, and any other acts amendatory thereto, are hereby amended by adding the following new Section 35 and redesignating the subsequent sections accordingly:

Section 35. Alienation of Assignment of Benefits; Qualified Domestic Relations Orders (QDROs).

(a) This Act, as created by Chapter 557 of the Private Acts of 1939, and any other acts amendatory thereto, is deemed to be the Hamilton County Employees' Retirement Act, hereinafter referred to under this Section 35 as "the Plan."

(b) Except as otherwise provided under Tennessee Code Annotated, Section 26-2-105, no benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge shall be void. No such benefit shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements, or torts of the person entitled to such benefit, except for an order of assignment of support issued under Tennessee Code Annotated, Section 36-5-501 or a QDRO under Tennessee Code Annotated, Section 26-2-105, subject to this paragraph (b).

(c) If a QDRO pertains to a plan member who is already receiving benefits under the Plan, the alternate payee, as identified in the QDRO, shall share in the payments being made to the plan member and shall not be allowed to change the payment method or the timing of the payments. If a QDRO pertains to a plan member who has not commenced receiving benefit payments under the Plan, the alternate payee shall not be permitted to receive benefit payments from the Plan until the member commences receiving payments, and then the alternate payee shall share in the payments to be made to the member in the manner and timing of payments as elected by the member. The Plan shall not accept a QDRO that provides the alternate payee with a separate interest in a member's benefit.

(d) The responsibility for the review and processing of a QDRO is hereby delegated to the Pension Commission, which may, in its discretion, further delegate some or all of such responsibility to a county employee or third party; provided, that the ultimate authority for the determination of the qualified status of a domestic relations order remains with the Pension Commission. The Pension Commission shall establish reasonable procedures to determine the qualified status of a domestic relations order.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Hamilton County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of Hamilton County and certified to the secretary of state.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2.